

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

**Plaintiff,**

- against -

**ATLANTIC ASSET MANAGEMENT, LLC,**

**Defendant.**

**15 Civ. 9764 (WHP)**

### ECF Case

**REVISED JOINT PLAN OF DISTRIBUTION FOR ATLANTIC ASSET  
MANAGEMENT, LLC FILED BY SECURITIES AND EXCHANGE COMMISSION  
AND  
MARTI P. MURRAY, AS RECEIVER**

SECURITIES AND EXCHANGE  
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Dated: New York, New York  
October 13, 2016

**A. Summary of Distribution Plan**

Plaintiff Securities and Exchange Commission (the “**Commission**”) and Marti P. Murray, as Receiver of Atlantic Asset Management LLC (the “**Receiver**,” and together with the Commission, the “**Proponents**”), jointly and respectfully submit this proposed Revised Plan of Distribution (the “**Plan**”) to distribute funds to creditors of AAM (defined below) and investors harmed as a result of AAM’s securities laws violations as adjudicated in the Judgment on consent, entered January 26, 2016 (DE 44) (defined below). This Plan sets forth the method and procedures for distributing AAM’s assets.

**B. Background**

1. The Commission filed its complaint against Atlantic Asset Management LLC (“**Atlantic**”) on December 15, 2015 (DE 1), alleging that Atlantic had violated the antifraud provisions of the Investment Advisors Act of 1940 (“**Advisers Act**”), among other violations. The Commission alleged that Atlantic, a registered investment adviser, had invested over \$40 million of its clients’ funds in bonds issued by the Wakpamni Lake Community Corporation in August 2014 and April 2015, without disclosing to those clients the numerous conflicts of interest inherent in the transactions as a result of the benefits that they conferred on Atlantic’s affiliates.

2. On December 15, 2015, the Court entered an Order to Show Cause, Temporary Restraining Order and Order Granting Other Relief (DE 3), directing Atlantic to show cause why it should not be preliminarily enjoined from further violations of the Advisers Act, and pending a hearing on the Commission’s application for a Preliminary Injunction, temporarily restraining Atlantic from violating the Advisers Act, appointing an Independent Monitor, and imposing

certain notification obligations on Atlantic respecting transfers of any assets to Atlantic's control persons.

3. On December 21, 2015, the Court entered its Order Granting Preliminary Injunction and Other Relief, on consent (DE 16) and named Marti P. Murray as Temporary Monitor. On January 8, 2016, on the Commission's application, the Court entered an Order to Show Cause why the Temporary Monitor should not be converted to a Receiver for Atlantic. (DE 22.) The Court amended its Preliminary Injunction Order on January 8, 2016, and appointed Marti P. Murray as Receiver for Atlantic (DE 26).

4. On January 26, 2016, the Court entered Judgment on consent against Atlantic, permanently enjoining Atlantic from further violations of Sections 206(1), (2) and (4) of the Advisers Act, 15 U.S.C. §§ 80b-6(1), (2), (4), and Rule 206(4)-8 thereunder, 17 C.F.R. § 275.206(4)-8. (DE 44.)

**C. Current Financial Status of Receivership Estate**

1. As of September 30, 2016, the Receiver has cash on hand of approximately \$861,910.74. After accounting for outstanding expenses of the receivership incurred through September 30, 2016, the Proponents expect that approximately \$816,766.70 will be available for distribution, less any fees and expenses of the receivership incurred from and after September 30, 2016, and less any reserves held to implement the Plan as determined necessary by the Proponents but in any event not less than \$50,000.

2. Claims against the Receivership Estate from former employees, investors, taxing authorities and unsecured creditors total \$50,699,582.70, with claims from investors whose funds were wrongfully invested in the bonds issued by the Wakpamni Lake Community Corporation

amounting to \$43,277,436.00 or approximately 85% of the total claims against the Receivership Estate.

**D. Definitions**

As used in this Plan, the following definitions shall apply:

1. “**AAM**” means Atlantic Asset Management LLC and its predecessor, Hughes Capital Management LLC. For the purposes of Paragraph L, below, the term “AAM” does not include any Excluded Party.
2. “**AAM Employee**” means a person employed by AAM as of January 8, 2015 to whom AAM owes an AAM Employee Claim who is not an Excluded Party.
3. “**AAM Employee Claim**” means the amounts owed in unpaid salary or wages to each AAM Employee for the period from January 1, 2016 through January 8, 2016, provided, however, that for the avoidance of doubt, the term AAM Employee Claim does not include a Claim for (a) accrued but unused vacation time; (b) any unearned compensation pursuant to an employment or other contract that first became due after the date of such employee’s discharge, including, without limitation, any Claim for breach of such employment or other contract; (c) any contractual or other right to severance or post-termination compensation of any kind; (d) any Claim for reimbursement of expenses; (e) any Claim for unpaid commissions; or (f) any voluntary deferred compensation; provided, however, for AAM Employees who had an employment contract with AAM or its predecessor as of January 8, 2016 (“AAM Employment Contract Employees”), severance payments owed to such AAM Employment Contract Employee pursuant to his or her employment contract in an amount greater than his or her AAM Employee Claim shall be treated as an Unsecured Creditor Claim in the amounts provided for on Exhibit D hereto.



4. **“Administration Costs”** means the costs and expenses of administration of the Receivership, including, without limitation, any actual, necessary costs and expenses of preserving the Estate and completing the wind-down of AAM’s business, including all taxes, fees owed to the Court and any reasonable fees, costs, and expenses incurred by the Receiver and any Retained Personnel<sup>1</sup> in carrying out this Plan.

5. **“Approved”** means, with respect to an AAM Employee Claim, a Payroll Tax Claim, a GYOF Investor Claim, a Wakpamni Investor Claim or an Unsecured Creditor Claim, the amount the Proponents determine each Claimant is owed based upon a review and reconciliation of AAM’s books and records and any other credible information obtained by the Proponents.

6. **“Approved Claim”** means, when referring to an AAM Employee Claim, a Payroll Tax Claim, a GYOF Investor Claim, a Wakpamni Investor Claim or an Unsecured Creditor Claim, the amount that the Proponents have approved, as set forth on Exhibits A-D hereof.

7. **“Approved Claim Distribution Amount”** means the amount the Proponents determine to pay on each Eligible Claim.

8. **“Avoidance Action”** means any cause of action to avoid or recover a transfer of property of the Estate or an interest of AAM in property, including, without limitation, actions arising under applicable federal, state or common law. Such Avoidance Actions shall be pursued on a contingent fee and expense basis only.

9. **“Cause of Action”** means a claim, right, action, chose in action, suit, cause of action, lien and judgment, including Avoidance Actions, belonging to AAM and any and all

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<sup>1</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the Amended Order Granting Preliminary Injunction and Other Interim Relief (the **“Amended PI Order”**) (DE 26).

liabilities, obligations, covenants, undertakings and debts owing to AAM, whether arising prior to or after January 8, 2016, and in each case, whether known or unknown, in law, equity or otherwise.

10. **“Claim”** means a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

11. **“Claimant”** means a person or entity who is not an Excluded Party and who holds an Approved Claim in one of the following classes:

- a. a Claim for amounts owed to an AAM Employee for an AAM Employee Claim identified on Exhibit A hereto; and
- b. a Claim for unpaid payroll taxes due to various state and federal taxing authorities (each, a “Payroll Taxing Authority”) by AAM, identified on Exhibit B hereto;
- c. a Claim for amounts owed to Wakpamni Investors and to GYOF Investors by AAM, identified on Exhibit C hereto;
- d. a Claim for amounts owed to unsecured creditors of AAM, including those asserted by taxing authorities other than Payroll Taxing Authorities (“Unsecured Creditors”), all as identified on Exhibit D hereto.

12. **“Claim Objection”** means an objection filed with the Court and served on the Proponents prior to the Claim Objection Cutoff by any person wishing to dispute the amount of his, her or its Approved Claim Distribution Amount or lack of an Approved Claim Distribution Amount.

13. **“Claim Objection Cutoff”** means the date that is sixty (60) days after the Distribution Check mailing date by which any Claim Objection must be filed with the Court and

served on the Proponents. The Claim Objection Cutoff date shall be posted on the Commission's website at <http://www.sec.gov/divisions/enforce/claims.htm>.

14. **"Collateral Recovery"** means a recovery by any holder of a Claim from any source other than under this Plan.

15. **"Commission"** means the United States Securities and Exchange Commission or its staff.

16. **"Commission Complaint"** means the Complaint filed in this action on December 15, 2015.

17. **"Court"** means the United States District Court for the Southern District of New York.

18. **"De Minimis Amount"** means \$100.

19. **"Distributable Amount"** means the amount determined by the Proponents, and as approved by the Court, that is available for distribution in the General Distribution or Supplemental Distribution.

20. **"Distribution"** means the disbursement of monies from the Estate to Eligible Claimants pursuant to this Plan.

21. **"Distribution Check"** means the check issued from the Estate to an Eligible Claimant for its Approved Claim Distribution Amount in either the General Distribution or the Supplemental Distribution.

22. **"Distribution Check Mailing Date"** means the date on which the Proponents or their designee deposit any Distribution Check with the United States Postal Service, postage prepaid. The Proponents' records of the Distribution Check Mailing Date shall constitute *prima*

*facie* evidence of the occurrence of the Distribution Check Mailing Date with respect to any Distribution Check.

23. “**Eligible Claim**” means a Claim that is

- a. a Payroll Tax Claim;
- b. a Wakpamni Investor Claim;
- c. a GYOF Investor Claim;
- d. an AAM Employee Claim; or
- e. an Unsecured Creditor Claim; and

that is greater than the De Minimis Amount.

24. “**Eligible Claimant**” means any holder of an Eligible Claim.

25. “**Estate**” means the assets and property, in whatever form, of AAM.

26. “**Excluded Party**” means any of Michelle Morton, Gary Hirst, Wealth-Assurance AG, Valor Group Ltd., COR International Ltd. and Olshan Frome Wolosky, LLP, and any of their respective officers, directors, partners, agents, parents, subsidiaries, successors and assigns. The Proponents reserve the right to determine that other persons shall be an Excluded Party, which determination may be appealed through the Claim Objection procedures discussed below. An Excluded Party is not an Eligible Claimant.

27. “**Final Determination**” means the date by which the Court enters an order finally adjudicating all Claim Objections submitted. In the event that no Claim Objections are submitted, no Final Determination will be necessary.

28. “**General Distribution**” means the Distribution of Approved Claim Distribution Amounts to Eligible Claimants holding AAM Employee Claims, Payroll Tax Claims, GYOF Investor Claims and Wakpamni Investor Claims.



29. **“GYOF Investor Claim”** means a GYOF Investor’s (as defined below) *pro rata* share of the principal amount of the Wakpamni Bonds (as defined below) held by GYOF, less any Collateral Recovery obtained by the GYOF, or the GYOF Investor if such Wakpamni Bonds are distributed by GYOF in kind.

30. **“Insurance Policy Recovery Distribution”** means the distribution to holders of Claims from the proceeds recovered by the Receiver from any AAM policy of insurance, net of any fees and expenses incurred in connection therewith.

31. **“Investor”** means any client of AAM:

- a. for whose account AAM bought bonds issued by the Wakpamni Lake Community Corporation (**“Wakpamni Bonds”**) in 2014 (the **“Wakpamni Investor”**); or
- b. any investor in the AAM-managed Global Yield Opportunity Fund (**“GYOF”**) after April 16, 2015 (**“GYOF Investor”**).

32. **“Investor Claim”** means the Claim of any Wakpamni Investor or GYOF Investor.

33. **“Payroll Tax Claim”** means each Approved Claim held by a Payroll Taxing Authority, for which the distribution amount in the General Distribution shall be 33%. The remaining unpaid portion of any Claim held by a Payroll Taxing Authority shall become an Unsecured Creditor Claim after payment of such Payroll Tax Claims in the General Distribution.

34. **“Plan Date”** means the date of entry of a Court order approving the Plan.

35. **“Receiver”** means Marti P. Murray, as Receiver, appointed pursuant to the Amended Order Granting Preliminary Injunction and Other Interim Relief entered January 8, 2016 (DE 26) (the **“Amended PI Order”**).

36. **“Scheduling Order”** means an Order issued by the Court setting the date (1) by which the Receiver and/or the Commission shall mail out notices of the proposed Plan to Eligible Claimants; (2) by which objections to the proposed Plan shall be served and filed and by which responses to such objections shall be served and filed; (3) on which the Court shall hold a hearing on the proposed Plan and any objections thereto; and (4) any other or different dates the Court may set for consideration of the Plan.

37. **“Stale Date”** means the date ninety (90) days after the mailing date of any Distribution Check issued in any Distribution pursuant to this Plan.

38. **“Supplemental Distributable Amount”** means the amount approved by the Court and consisting of: (1) the amounts of cash remaining in the Estate after the General Distribution, Final Determination by the Court of Claim Objections and the General Distribution Stale Date; and (2) additional assets obtained by the Estate after the General Distribution.

39. **“Supplemental Distribution”** means the potential Distribution to Eligible Claimants holding Unsecured Creditor Claims that may take place if sufficient distributable funds exist after the General Distribution is complete.

40. **“Unsecured Creditor”** means a holder of an Unsecured Creditor Claim.

41. **“Unsecured Creditor Claim”** means an Approved Claim for amounts owed to Unsecured Creditors of AAM, including those asserted by taxing authorities other than any Payroll Taxing Authority and the remainder owed on any Approved Claim asserted by a Payroll Taxing Authority after the General Distribution.

42. **“Wakpamni Investor Claim”** means the principal amount of the Wakpamni Bonds bought by a Wakpamni Investor in August 2014, less any Collateral Recovery obtained by the Wakpamni Investor.

**E. Notice to AAM Employees, Payroll Taxing Authorities, Investors, and Unsecured Creditors**

1. Prior to approval of the Plan, the Proponents will have:
  - a. Identified mailing addresses for some or all of the AAM Employees, Payroll Taxing Authorities, Investors, and Unsecured Creditors through the use of AAM's existing records and other sources of information reasonably available to the Receiver or the Commission staff; and
  - b. Pursuant to the Scheduling Order of the Court, mailed to AAM Employees, Payroll Taxing Authorities, Investors, and Unsecured Creditors a copy of the proposed Plan and the Scheduling Order.
2. Within 30 days after the Plan Date the Commission shall post the approved Plan on the Commission's website at: <http://www.sec.gov/divisions/enforce/claims.htm>.

**F. Determination of Eligible Claims**

1. The allocation methodology in this Plan seeks to achieve the prompt, fair, and efficient distribution of the Estate to AAM Employees, Payroll Taxing Authorities, Investors and Unsecured Creditors. Because the cash in the Estate is insufficient to satisfy all Claims, the Plan contemplates that the General Distribution will allocate the Distributable Amount first, to AAM Employee Claims up to one hundred percent (100%) of the amount of the Approved AAM Employee Claim; second to the Approved Payroll Tax Claims up to thirty-three percent (33%) of the Approved Payroll Tax Claim; and, third, to Investor Claims, *pro rata*. A Supplemental Distribution may occur if there are sufficient funds remaining or collected after the General Distribution and will be distributed in accordance with paragraph "J" below.
2. The Proponents shall determine the Approved Claim of each Eligible Claimant according to the books and records of AAM, and evidence of amounts due provided by the



Claimant, and will assign each Eligible Claimant to its appropriate class: (1) AAM Employee Claims; (2) Payroll Taxing Authority Claims; (3) GYOF Investor Claims; (4) Wakpamni Investor Claims or (5) Unsecured Creditor Claims.

3. Within 15 days following the Plan Date, the Proponents shall move for Court approval of the Distributable Amount and authority to carry out the General Distribution. In their Motion pursuant to this paragraph, the Proponents shall set forth the cash amounts then held by the Estate and each of the amounts the Proponents determined to reserve as Administration Costs.

4. With the Motion pursuant to sub-paragraph “3” above, the Proponents shall provide the Court a schedule listing each Eligible Claimant in the General Distribution, its associated Eligible Claim, and its associated Approved Claim Distribution Amount, calculated as described below.

**G. General Distribution**

1. Within 30 days after an entry of an Order approving the Distributable Amount and authorizing the General Distribution, the Receiver shall issue Distribution Checks to each Eligible Claimant in the amount of the Approved Claim Distribution Amount.

2. For the purposes of the General Distribution, only Eligible Claimants with an AAM Employee Claim, a Payroll Tax Claim, a GYOF Investor Claim and a Wakpamni Investor Claim shall participate. The Proponents shall calculate the Approved Claim Distribution Amount as follows:

Eligible Claimant	Method of Calculation of Approved Claim Distribution Amount
AAM Employee Claim	100% of Approved Claim
Payroll Tax Claim	33% of Approved Claim
GYOF Investor Claims and Wakpamni Investor Claims	100% of Approved Claim on a <i>pro rata</i> basis



In calculating the Approved Claim Distribution Amount for Investor Claims, the Proponents shall determine each Investor's *pro rata* share of the Distributable Amount after deducting payments owed on the Approved AAM Employee Claims and the Approved Payroll Tax Claims. Each Investor's *pro rata* share shall be calculated as the ratio of such Investor's Claim to the total of all Investors' Claims, multiplied by the remaining Distributable Amount.

3. All Distribution Checks shall be mailed to the Eligible Claimants in the General Distribution with a letter from the Proponents, stating (a) that the payment is a distribution pursuant to the Plan; (b) the amount of the Approved Claim; (c) the amount of the Approved Claim Distribution Amount; (d) that the Distribution Check will be void after 90 days; and (e) the Receiver's telephone number and email address to contact with any questions regarding the Distribution.

4. In the event that a Distribution Check was mailed to an Eligible Claimant's last known address and is returned as undeliverable with no forwarding address, the Receiver shall undertake good faith efforts until the Stale Date to locate an updated address for the Eligible Claimant and/or contact the Eligible Claimant to ensure that the intended recipient has a reasonable opportunity to participate in the Distribution.

5. Forty-five (45) days after the Distribution Checks are mailed, the Receiver shall obtain information from the issuing financial institution concerning checks that have not been negotiated but have not been returned as undeliverable or requested to be reissued. The Receiver shall undertake good faith efforts until the Stale Date to contact holders of Eligible Claims to ensure that the intended recipients have a reasonable opportunity to participate in the Distribution.

6. Distribution Checks that are undeliverable or are not negotiated by the Stale Date despite the reasonable efforts of the Receiver shall be voided and the issuing financial institution shall be instructed to stop payment on those checks. If an Eligible Claimant's check has not been negotiated as of the Stale Date and has been voided, those funds will be considered forfeited and shall revert to the Estate for further distribution in the Supplemental Distribution, if such Supplemental Distribution is proposed by the Proponents and approved by the Court.

7. The Receiver shall have no obligation to investigate whether any holder of a Claim has received any Collateral Recovery.

**H. Claim Objection Procedure**

1. Any Eligible Claimant who wishes to dispute for any reason the amount of an Approved Claim Distribution Amount in either the General Distribution or the Supplemental Distribution, if any, shall file a Claim Objection with the Court and serve a copy of such objection on the Receiver and the Commission. A Claim Objection shall include the basis for the dispute and must be filed by the Claim Objection Cutoff, which shall be sixty (60) days after the Distribution Check mailing date and which date shall be posted on the Commission's website.

2. Within 30 days after the Claim Objection Cutoff, the Receiver and/or the Commission shall file responses to any Claim Objections filed.

3. Any award granted in resolution of any Claim Objection shall only be paid in the Supplemental Distribution, if any, and shall be limited by the cash balances, if any, available in the Estate, less any amount, to be determined by the Receiver, necessary to pay Administration Costs.

**I. Insurance Policy Recovery Distribution**

4. If the Receiver obtains a recovery from any AAM policy of insurance, then such recovery shall be distributed to each as follows: (a) if the proceeds are designated by the insurance policy payor to be for the specific benefit of a particular Investor or other person except AAM, then the Receiver shall make the Insurance Policy Recovery Distribution to that Investor or other person up to the amount of the Investor's Claim, minus any Collateral Recovery obtained by that Investor to date; and (b) if the proceeds are designated by the insurance policy payor to be for the benefit of AAM or does not specify a particular Investor or person, then the Receiver shall distribute the proceeds in accordance with section G or J of the Plan, as applicable, in each case net of fees and expenses incurred with respect to any such recovery.

**J. Possible Supplemental Distribution**

1. For the purposes of the Supplemental Distribution, only Eligible Claimants with an Unsecured Creditor Claim will participate until such time as the Unsecured Creditor Claimants shall have received the same percentage of recovery on each of their respective Unsecured Creditor Claims as the Investors received on each of their respective Investor Claims in the General Distribution and/or the Insurance Distribution. Thereafter, Unsecured Creditors and Investors shall participate, *pro rata*, in any Supplemental Distribution, as Eligible Claimants, up to the amounts of their respective Approved Claims, minus Collateral Recoveries.

2. Within 30 days following the entry of Orders of the Court issuing a Final Determination of Claim Objections received in connection with the General Distribution, or within ninety (90) days after the Stale Date of the last check issued in the General Distribution, whichever is later, and subject to extension by further Court Order, the Proponents shall take the following steps:



- a. make a determination of the Remaining Distributable Amount, based on the cash balances, if any, available in the Estate, less any amount, to be determined by the Receiver, necessary to pay Administration Costs, and less any amounts awarded pursuant to the Claim Objection process.
  - b. make a determination as to whether the Remaining Distributable Amount is sufficient to make a Supplemental Distribution.
  - c. if the Remaining Distributable Amount is sufficient to make an additional distribution, petition the Court for an Order authorizing a Supplemental Distribution, including with such petition a list of Eligible Claimants, their respective Eligible Claims and their respective Approved Claim Distribution Amounts. For purposes of the Supplemental Distribution, the Proponents shall calculate each Eligible Claimant's *pro rata* share of the Remaining Distributable Amount by determining the ratio of each such Eligible Claimant's Claim to the total Eligible Claims and multiplying it by the Remaining Distributable Amount.
3. Within thirty (30) days following the entry of Orders of the Court issuing a Final Determination of Claim Objections received in conjunction with the General Distribution, or within ninety (90) days after the Stale Date of the last check issued in the General Distribution, whichever is later and subject to extension by further Court Order, if the Remaining Distributable Amount is not sufficient to make a Supplemental Distribution, the Proponents will move the Court for an Order authorizing the Receiver to remit the Remaining Distributable Amount to the United States Treasury, subject to any reasonable request by the Receiver to reserve additional amounts for unanticipated Administration Costs.



4. Within thirty (30) days after entry of a Court Order approving the disbursement of the Supplemental Distribution, the Proponents shall carry out the procedures outlined in Section I.2, above, to the extent relevant and necessary to effectuate the Supplemental Distribution. All Distribution Checks shall be mailed to the Eligible Claimants in the Supplemental Distribution with a letter from the Proponents, stating (a) that the payment is a distribution pursuant to the Plan; (b) the amount of the Approved Claim; (c) the amount of the Approved Claim Distribution Amount; (d) that the Distribution Check will be void after ninety (90) days; and (e) the Receiver's telephone number and email address to contact with any questions regarding the Distribution.

5. Any Eligible Claimant wishing to dispute the amounts awarded or not awarded in the Supplemental Distribution shall file a Claim Objection with the Court and serve a copy of such Claim Objection on the Receiver and the Commission, including in such Objection the basis for the dispute, no later than sixty (60) days after the Supplemental Distribution Check mailing date. The Receiver and/or the Commission shall file responses to any Objections filed within thirty (30) days after the filing of such a Claim Objection.

**K. Adjustments and Amendments**

1. To carry out the purposes of the Plan, the Proponents may make adjustments to the Distribution Plan, consistent with the purposes and intent of the Plan, as may be agreed by the Proponents.

2. The Proponents reserve the right to propose amendments to the Plan. The Court retains jurisdiction over this matter for the purpose of ruling on any such proposed amendments and for any and all other matters that may arise under or relate to the Plan.

**L. Administration Costs and the Receiver's Duties to Effect the Plan**

1. The Receiver and any Retained Personnel shall petition the Court monthly for payment of Administrative Costs, in accordance with the procedures provided in the Amended PI Order.

2. Prior to the General Distribution and any Supplemental Distribution, the Receiver shall reassess the amounts necessary to reserve for Administrative Costs and contribute to the Distributable Amount any monies previously reserved for Administrative Costs that she, in her discretion, after consultation with the Commission, deems unnecessary to reserve.

3. In connection with effectuating the Plan, the Receiver and the Retained Personnel are entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for good faith compliance with any order, rule, law, judgment, or decree, including Orders of the Court. In no event shall the Receiver or Retained Personnel be liable for information provided or not provided to any AAM Employee, Payroll Taxing Authority, GYOF Investor, Wakpamni Investor or Unsecured Creditor or any other individual who asserts a Claim, or for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel, nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of fraud, gross negligence or willful misconduct. The Court retains exclusive jurisdiction over all disputes arising in connection with the Distribution, including, but not limited to, claims against the Receiver and Retained Personnel asserting liability for violation of any duty imposed under the Plan.

4. The Receiver shall preserve for the benefit of the Estate, all documents and files, including electronic data hosted on remote servers that are necessary to the prosecution of any

causes of action, including the Avoidance Actions, and the effectuation of the Plan (the “**Retained Information**”). The Receiver shall preserve the Retained Information until the date that is one (1) year following the closing of the Receivership. On the Plan Date, the Receiver shall be permitted to abandon (with or without destruction), any information that is not Retained Information. At the one year anniversary of the closing of the Receivership, the Receiver shall deliver all Retained Information to the Commission for retention.

5. Following the Plan Date, AAM shall continue in existence for the purposes of, among other things, effectuating the Plan, prosecuting Causes of Action, including Avoidance Actions, pursuing insurance recoveries, winding up its affairs and filing any appropriate tax returns. If, within 45 days after the Plan Date, the GYOF Investors and the Receiver have not come to an agreement on the disposition of the assets still held in GYOF, or on the appointment of a replacement General Partner for GYOF, the Receiver shall take the necessary action to distribute the assets held by GYOF in kind to the GYOF Investors and dissolve GYOF.

**M. General Injunctions**

The following provisions shall apply and shall be fully set forth in the Court’s Order approving the Plan:

1. Injunctions Against Interference with Consummation or Implementation of Plan.

All holders of Claims shall be enjoined from commencing or continuing any judicial or administrative proceeding or employing any process against AAM or the Estate with the intent or effect of interfering with the consummation and implementation of this Plan and the transfers, payments and Distributions to be made hereunder.

2. Plan Injunction. Subject to the rights afforded in Paragraph N, the rights afforded in the Plan and the treatment of all Claims in the Plan shall be in exchange for and in complete



satisfaction of Claims, including any interest accrued on Claims, against, AAM, its successors and assigns or any of its assets or properties (other than insurance policies); provided however, that (x) the Investors retain and may pursue any Claim arising out of or related to the Wakpamni Bonds against third parties; (y) the Investors retain and may pursue any Claim for recovery under any insurance policy held by AAM that relates to investment advisory services rendered by AAM; and (z) nothing herein shall affect any Claim brought by anyone against any Excluded Party. Except as otherwise provided for in the Plan, all persons are permanently enjoined, on and after the Plan Date, on account of any Claim satisfied and released hereby, from:

- a. commencing or continuing in any manner any action or other proceeding of any kind against AAM, its successors and assigns, and any of their assets and properties;
- b. enforcing, attaching, collecting or recovering by any manner or means any judgment, award, decree or order against AAM, its successors and assigns, and any of their assets and properties;
- c. creating, perfecting or enforcing any encumbrance of any kind against any AAM, its successors and assigns, and any of their assets and properties;
- d. asserting any right of setoff or subrogation of any kind against any obligation due from AAM, or its successors and assigns, or against any of its assets and properties; or
- e. commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim released or settled hereunder.

**N. Causes of Action to Be Preserved**



1. Upon approval of the Plan, nothing in the Plan shall preclude Investors from pursuing claim(s) against AAM in a venue outside of the Court, provided, however, that: (a) the Receiver is not obligated to defend or appear in such matter and nothing herein prevents the entry of default against AAM; (b) any such claim or litigation shall have no effect on the execution of the Plan, the termination of the Receivership Estate, or the discharge of the Receiver; and (c) any relief or judgment obtained against AAM in any such litigation (except as may be covered by insurance), and any claims (third party or otherwise) for indemnity or contribution against AAM, shall be subordinated to the payment in full of any and all claims of AAM Employees, Payroll Taxing Authorities, Investors, and Unsecured Creditors under the Plan, provided however, that nothing herein shall be deemed a discharge of any claim by any Investor against AAM.

2. Unless a Cause of Action is expressly waived, relinquished, released, compromised or settled in the Plan or any final Order of the Court, AAM expressly reserves such Cause of Action for later adjudication by AAM (including, without limitation, Causes of Action not specifically identified or described or of which AAM may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to AAM at this time or facts or circumstances which may change or be different from those AAM now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Causes of Action upon or after the Plan Date based on the Plan.

3. Any Cause of Action against any Excluded Party or any Defendant named in United States v. Jason Galanis, et al., 16 MAG 2978 (S.D.N.Y.) or SEC v. Archer, et al., 16 Civ.

3505 (S.D.N.Y.), shall not be filed by the Receiver until after a final Judgment is entered in both cases.

4. If GYOF Investors determine that they are unable to pursue any cause of action in their own names arising out of the purchase of the Wakpamni Bonds by GYOF, then the Receiver, in her discretion and in consultation with the Commission and the GYOF Investors, shall determine whether she will pursue such cause of action, on a contingency fee and expense basis (or an alternative arrangement that results in no charge to the receivership), for the benefit of the GYOF Investors.

**O. General Release**

1. The Receiver is entitled to rely on all outstanding rules of law and court orders, and shall not be liable to anyone for good faith compliance with any order, rule, law, judgment, or decree, including the orders of this Court. In no event shall the Receiver be liable to any person or entity for good faith compliance with the Receiver's duties and responsibilities under the Plan except upon a finding by this Court that the Receiver acted or failed to act as a result of

misfeasance, bad faith, gross negligence, or in reckless disregard of the Receiver's duties under the Plan.

Dated: New York, New York  
October 13, 2016

SECURITIES AND EXCHANGE  
COMMISSION

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